

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3627 of 1991

and

SPECIAL CIVIL APPLICATION No 3631 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

MAHALA GULABBHAI SOMABHAI

Versus

PRINCIPAL

Appearance:

MR AD OZA for Petitioner in both matters
MR DM THAKKAR for MR PM THAKKAR for Respondent No. 1
MR VB GARANIA, ASST.GOVERNMENT PLEADER for
Respondents Nos.3 & 4

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 12/03/98

COMMON ORAL JUDGEMENT

1. Both these petitions are based on identical facts and raise common questions of law and, therefore, the

same are decided by this common judgment and order.

2. The petitioners herein were appointed on 8th August 1988 and 1.11.1988 as Shram Sanyajak and Professor, respectively, in the Vanseva Mahavidyalaya wherefrom they had graduated in the year 1987 and obtained the degree of Bachelor of Rural Studies. There is no dispute that they were appointed on the basis of a selection held by the Institute after issuing a notice inviting applications. While they were so continuing in service in this Government aided institution and were getting the salary under the direct payment of salary scheme, the Government took a decision to stop the payment of the salary to them under direct payment of salary scheme. The objection was that, neither this Vanseva Mahavidyalaya was recognised prior to 1988 nor the degree of Bachelor of Rural Studies from this institute was recognised by the Government at the time when these petitioners obtained the aforesaid degree. The institute, therefore, passed an order on 28th March 1991 terminating the services of each of these petitioners. The petitioners approached this Court through the present Special Civil Application Nos.3627 of 1991 and 3631 of 1991 respectively, and while issuing notice, this Court granted the ad-interim relief to these petitioners against their termination, on 26th June 1991.

3. During the pendency of these applications, an order has been issued by the Education Department of the Govt. of Gujarat, on 20th September 1997 whereby the respondent institute has been granted recognition retrospectively from 1984 and yet another order dated 5.10.1991 has been issued whereby the degree of Bachelor of Rural Studies as awarded by the respondent institute has also been recognised.

4. In view of these two orders dated 20th September 1997 issued by the Education Department and the order dated 5.10.1991 issued by the GAD granting recognition to the institution retrospectively from the year 1984 and with regard to the degree of Bachelor of Rural Studies, there cannot be any objection to the petitioners' further continuance in service on the posts held by them. Accordingly, it is found that the ground on which their services were terminated have become non-existent and, therefore, the termination orders deserve to be quashed and set aside and there cannot be any objection to their continuance in service on the respective posts held by them. They have been getting the salary after the date of the interim order passed by this Court, i.e. on 26th June 1991 and the only dispute now remains is about the

period for which the salary has not been paid, i.e. after March 1991 till the date of passing of the interim order.

5. A grievance has also been raised that the petitioners' salary has not been revised from time to time because of the pendency of these petitions and the termination order passed by the Government.

6. In the facts and circumstances of the case, these Special Civil Applications succeed, the termination orders dated 28th March 1988 are quashed and set aside and it is ordered that the petitioners shall be paid the due amount of salary for the period for which they have not been paid in accordance with law and they will be entitled to the revision of salary as has been done in the case of other employees and they will be entitled to all consequential benefits as if the termination order dated 28th March 1988 has never been passed against them. The Government will issue the necessary orders sanctioning the grant admissible for the payment of salary to these petitioners. Rule is made absolute in terms as aforesaid. No order as to costs.

sreeram.